

**SUBCHAPTER I. GENERAL PROVISIONS REGARDING FEES, APPLICATIONS,
AND RENEWALS.
§§19.801 and 19.803 – 19.810****SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING
EDUCATION PROGRAMS, AND CERTIFICATION PROGRAMS
§§19.1003, 19.1004, 19.1010, 19.1013, 19.1016, and 19.1019****SUBCHAPTER N. LICENSING AND REGULATION OF RISK MANAGERS
§19.1310**

INTRODUCTION. The Texas Department of Insurance adopts amendments to 28 TAC §§19.801, 19.1003, 19.1004, 19.1010, 19.1013, 19.1016, 19.1019, and 19.1310, and new §§19.803 – 19.810, concerning licensing and continuing education requirements of insurance professionals, including agents, adjusters, public insurance adjusters, managing general agents, risk managers, and home office salaried employees. The amendments and new sections are adopted with changes to the proposed text published in the March 9, 2018, issue of the *Texas Register* (43 TexReg 1391). TDI adopts amended §§19.1003, 19.1010, 19.1013, 19.1016, 19.1019, and 19.1310, and new §§19.805 – 19.809 without changes to the proposed text. TDI revised §§19.801, 19.804, and 19.810 in response to public comments. TDI revised typographical errors in §19.803 and §19.1004.

REASONED JUSTIFICATION. The amendments and new sections are necessary to implement Senate Bill 876, 84th Legislature, Regular Session (2015), which amends Insurance Code Title 13, relating to licensing and continuing education requirements; and SB 807, 84th Legislature, Regular Session (2015) and SB 1307, 84th Legislature, Regular Session (2015), which amend Occupations Code Chapter 55, relating to licensing of military service members, military veterans, and military spouses. Additionally, the amendments reflect current TDI style guidelines.

Amendments to §§19.801, 19.1003, 19.1004, 19.1010, 19.1013, 19.1016, 19.1019, and 19.1310, and new §§19.804 – 19.810 implement changes made by SB 876 to the licensing and continuing education requirements of insurance professionals, including agents, adjusters, public insurance adjusters, managing general agents, risk managers, and home office salaried employees.

Amendments to §§19.801, 19.1003, 19.1004, 19.1010, 19.1013, 19.1016, 19.1019, and 19.1310 also modernize requirements, including allowing for increased use of electronic payment transactions. The amendments also update statutory references resulting from the nonsubstantive revision of statutes enacted in SB 1324, 78th Legislature, Regular Session (2003).

New §19.803 implements changes made by SB 807 and SB 1307 to Occupations Code Chapter 55, relating to licensing of military service members, military veterans, and military spouses. In accordance with Chapter 55 of the Occupations Code, §19.803 provides for extensions of time to complete continuing education, reciprocal licensing, and waiver of the examination requirement.

Subchapter I. General Provisions Regarding Application Fees, License Application, and License Renewal.

Subchapter I is renamed to better reflect the scope of the matters addressed in the adopted sections.

§19.801

Section 19.801 is renamed to better reflect the scope of the matters addressed. The section has also been amended to comply with TDI's style guidelines. The proposed text for §19.801(c) has been changed in response to comments.

Section 19.801(a) is amended to address information related to the license application. Insurance Code §4001.102 requires the Commissioner to prescribe the requirements for a completed application. Section 19.801(a) implements this by requiring that an applicant provide all information required of the applicant under statute and rule. This replaces the requirement in §19.801(b)(1) that a "completed application" was "one that provides every piece of information required of the licensee by the application form." TDI allows multiple application forms for the applicant's convenience. TDI accepts license applications on TDI forms and from third parties, which currently include TDI's designated testing service, Texas.Gov, the National Insurance Producer Registry, and SIRCON. TDI works with these parties to ensure that an applicant completing an application acceptable to TDI will meet the completed application requirement.

Section 19.801(b) provides that an application for a license not currently held by the applicant is called an original application. Section 19.801(b)(1) and (2) are added to list the

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requirements for individual and entity license applications, including information required under Insurance Code §4001.105 and §4001.106. Application filing processes are addressed in the application instructions in new §§19.804 – 19.810.

Section 19.801(c)(1) is added to clarify that appointments authorize an agent to represent and act as an agent for an insurer. It is unnecessary to separately list health maintenance organizations and nonprofit legal services corporations, because they are included in the definition of "insurer" in Insurance Code §4001.003(6). Insurance Code §4001.205 provides that a general lines agent, personal lines property and casualty agent, and life agent may appoint a subagent.

Section 19.801(c)(2) is amended to require a \$10 appointment fee for each notice of appointment submitted to TDI. The fee is the same as the fee for additional appointments in §19.802. This fee is required to fully implement Insurance Code §4001.006 that requires TDI to set a nonrefundable appointment fee for each appointment of the agent by an insurer. Insurance Code §4001.205 requires persons appointing subagents to also submit the nonrefundable appointment fee.

Section 19.801(c)(3) addresses subagent appointments and includes the prior requirements in §19.801(c)(2). For reasons stated in the responses to comments section of this adoption, TDI has changed the text as proposed by adding a reference to "Insurance Code §4001.205" in §19.801(c)(3) so that it reads: "Subagent appointments must comply with Insurance Code §4001.205, including the following requirements...." Because §19.801(c)(3) now refers to Insurance Code §4001.205, TDI has removed the reference to "Insurance Code §4001.205" from §19.801(c)(3)(C) and revised that subparagraph to read: "the appointing agent must have a direct appointment from the insurer that the subagent is being appointed to represent and act for as an agent." The changes do not add additional costs or affect persons not on notice of this proposal.

With the described changes, adopted §19.801(c)(3)(A) and (B) state which license types may appoint and be appointed as subagents; §19.801(c)(3)(C) states that only directly appointed agents may appoint subagents; and §19.801(c)(3)(D) is the redesignated prior provision §19.801(c)(3) and provides that agents may have multiple direct and subagent appointments.

Section 19.801(d) addresses Insurance Code §4001.109 and the authority to write business when the agent and subagent have different license types.

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Section 19.801(e) is redesignated from §19.801(d). The subsection is amended to a list format to be easier to read. The requirement in this subsection continues to be that applicants must submit fees in accordance with the requirements for that transaction, which will be specified on the form or by the vendor.

Section 19.801(f) is redesignated from §19.801(e). The subsection is amended to remove references to TDI and TDI's designated testing service, because these fees may be submitted to additional vendors. The subsection is also amended to remove the reference to prorated fees in the prior section, because the referenced section has been removed. Further, fees may be adjusted as authorized by statute or TDI rule, not just as referenced in this subsection.

Section 19.801(g) is redesignated from §19.801(f). This section is amended to discuss the contingency of TDI administered examinations in a single reference, rather than each time TDI's designated testing service is referenced. In addition, the subsection is amended to conform to TDI style guidelines.

§19.803

Section 19.803 is adopted to comply with Chapter 55 of the Occupations Code related to licensing requirements and options for military service members, military veterans, and military spouses.

Section 19.803(a) incorporates the definitions in Occupations Code §55.001. As stated in the proposal, TDI has already implemented these provisions. Section 19.803(b) provides that §19.803 controls in conflicts with other rules in Chapter 19, as required by statute.

Section 19.803(c) provides for license renewal extension and fee exemption for certain military service members, as required by Occupations Code §55.003. Section 19.803(c)(1) lists the information that the military service member must submit to TDI to request the license renewal extension and fee exemption. Section 19.803(c)(1) and (2) provide the two-year extension and fee exemption authorized under Occupations Code §55.002 and §55.003, respectively. Section 19.803(c)(4) addresses how the continuing education hours earned during the period of the extension will be applied.

Section 19.803(d) establishes the procedure for a military service member, military veteran, or military spouse to request the waiver of the original application fee or examination fee paid to TDI as required under Occupations Code §55.009. Waiver of the examination fee, however,

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will only apply at a future time, if TDI begins receiving examination fees directly. Currently, all examination fees are paid to TDI's designated testing service.

Section 19.803(e) establishes an alternative licensing requirement for a military service member, military veteran, or military spouse by reciprocity or if the applicant held the license within the five years preceding the application date, as required under Occupations Code §55.004. Section 19.803(e)(1) establishes that reciprocal licensing under the section is subject to the qualifications and as provided in §19.803(c), which is based on the same standard and also provides that the applicant request waiver of the application fee. TDI has revised the text as proposed to renumbered the subparagraphs in Section 19.803(e)(2) because the proposed list included "(iii)" twice. The change does not affect any other rule, change a requirement, or add an additional cost.

Section 19.803(f) is added to incorporate the continuing education and licensing exemption and extension provisions for individuals called to active military under Insurance Code §36.109. Adding this provision to §19.803 allows military service members to identify exemptions and extensions that may apply to them, without having to review multiple rule sections. TDI has also included a cross-reference in §19.1004 to guide military service members to §19.803. In §19.803(f), TDI has used the term "military service member," because military service members are defined in Occupations Code §55.001 as being on active duty. This provides for consistent use of terminology.

§19.804

Section 19.804 addresses licensing requirements for a new entity license. The proposed text for §19.804(b) has been changed in response to comments. TDI has also changed references to "agency" in §19.804(b) and (c) to "entity license holder," for consistency with the terms "entity" and "entity license" that are used in adopted §19.801 and §19.804(a). In addition, TDI has corrected capitalization errors in adopted §19.804(b)(1) and (2).

Section 19.804(a) requires the entity to submit a completed original application.

Section 19.804(b) addresses the licensed individual officer or active partner that is required for licensure of the entity under Insurance Code §4001.106(b)(2). As stated in the responses to comments section of this adoption order, TDI has changed the text of §19.804(b) as proposed. For reasons stated in the responses to comments section of this adoption, TDI has removed references

to "control" and "responsible person." TDI has not changed the requirement that the officer or active partner have the same or greater license authority as the entity, based on lines the officer or active partner agent and entity are authorized to write. TDI has also clarified that for an entity that writes lines requiring different license types, the requirement for each license type may be obtained through different individual officers or active partners. TDI has allowed agencies to be licensed and formed in this way since the enactment of SB 414 in 2001.

Section 19.804(c) addresses other persons acting as insurance agents on behalf of the entity. As required in Insurance Code §4001.106(b)(2), these persons must have a license separate from the entity's license. As similarly addressed in §19.801(c), these persons must be appointed and are limited to the lessor of the entity's authority or their own license authority when acting on behalf of the entity.

§19.805

Section 19.805 addresses original application requirements for new individual licenses.

Section 19.805(a) clarifies that the section does not apply to certain individual license types and licensing procedures that are addressed in other sections and subchapters.

Section 19.805(b) states the procedure an applicant must use when applying for a license when successful completion of an examination is required through TDI's examination vendor or an insurance carrier administered examination. The procedure addresses submission of the application, payment of fees, and the timeframe for successfully completing the licensing examination. Under §19.805(b)(1)(B), the applicant must successfully complete the required examination before the application is submitted. The requirement applies to examinations taken through TDI's examination vendor and insurance carrier administered examinations. This aligns with the requirement in Insurance Code §4001.105(2) that the examination be completed within the 12 months before licensure and will facilitate the processing of applications by individuals that are complete and ready for immediate licensure. A comment was received in support of this procedure.

Section 19.805(c) states the procedure an applicant must use when a licensing examination is not required for issuance of the license, including submission of the application and payment of fees.

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Section 19.805(d) references that Insurance Code §4004.055(b) and §19.810 provide procedures and requirements for obtaining a new license if the applicant previously held a license authorized under Insurance Code Title 13 and issued or renewed on or after November 1, 2015. SB 876 added Insurance Code §4004.055(b), which prohibits TDI from issuing the new license if the licensee cannot provide evidence that the applicant completed the continuing education requirement and paid any applicable fine for the prior license.

§19.806

Section 19.806 addresses the procedure for submitting a provisional permit application. Section 19.806(a) states that the license type must be listed in Insurance Code §4001.353(a), because not all individual license types are authorized to obtain a provisional permit. If the applicant is required to pass a licensing examination, the applicant must successfully complete the licensing examination within the 12 month period before submitting the application. The examination requirement applies to applicants required to complete an examination administered by TDI's designated testing service in §19.806(1) and (2), and applicants completing insurer administered examinations in §19.806(3). Section 19.806(2) lists submission requirements for applicants, other than those described in §19.806(3), who have successfully completed required licensing examination, or are exempt from a required examination, including payment of fees. Section 19.806(3) lists submission requirements for applicants who have successfully completed an insurance carrier administered licensing examination, including payment of fees.

§19.807

Section 19.807 addresses the procedure for obtaining a temporary license and provides request and reporting standards for agents, insurers, and health maintenance organizations to appoint more than 500 temporary agents, under Insurance Code §4001.162(b). TDI issues temporary licenses to persons meeting the requirements under Insurance Code §§4001.151 – 4001.156. Under §19.807(a), applications for a temporary license must be submitted to TDI's designated testing service and include the information and payment of fees required under this subsection. To continue the license beyond the temporary license period, the applicant must pay the examination fee and successfully complete the required licensing examination as required under §19.807(b).

Insurance Code §4001.162(b) requires TDI "to adopt reasonable rules setting standards for an agent, insurer, or health maintenance organization to appoint more than 500 temporary license holders during a calendar year. The standards must include consideration of the ability of an agent, insurer, or health maintenance organization to monitor appointed temporary agents." The standards in §19.807 require both initial and periodic reporting requirements, because TDI interprets the requirement that it must consider the ability of an agent, insurer, or health maintenance organization to monitor appointed temporary agents to be an initial and continuing duty.

Section 19.807(c)(1) establishes standards for agents, insurers, and health maintenance organizations requesting authority to appoint more than 500 temporary agents in a calendar year. Section 19.807(c)(3) provides that TDI will determine if the request will be granted based on its review of the request. Section 19.807(b)(3) establishes quarterly reporting standards for agents, insurers, and health maintenance organizations to demonstrate that they are in compliance with Insurance Code requirements related to temporary agents.

§19.808

As required under Insurance Code §4003.001 and SB 876, TDI has aligned all entity and individual licenses to a single expiration date for each licensee. Section 19.808(a) states how expiration dates will be assigned for new licenses if the licensee has no other current license, including extending the expiration date of individual licenses to the end of the licensee's birth month.

Section 19.808(b) addresses alignment of expiration dates for licensees that have an existing license and obtain an additional license. Section 19.808(b)(2) provides that TDI will not issue a license with an original term of less than six months. The reason for this is to reduce the administrative burden on TDI and applicants. Because this would only apply to an individual with an existing license, TDI will issue the new license with the expiration date of the existing license as if it were renewed for another two year term. The date will be fixed for the new license even if the licensee chooses not to renew the existing license. Section 19.808(c) provides that the original application fee will not be increased or reduced based on the initial term of the license.

§19.809

Section 19.809 addresses issuing a Texas resident license to a nonresident licensee who relocates to Texas during the term of the license in compliance with Insurance Code §4056.059.

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The section requires the applicant to apply for the resident license within 30 days of relocating to Texas. The application must meet the requirements listed in Insurance Code §4056.059.

§19.810

Section 19.810 addresses procedures and requirements for renewing and reissuing licenses. SB 876 added Insurance Code §4004.055 that prohibits TDI from renewing or reissuing a license issued or renewed on or after November 1, 2015, if the licensee fails to complete the continuing education requirement and pay any applicable fine. Compliance with Insurance Code §4004.055 is required before TDI may renew or reissue a license for agents, adjusters, or public insurance adjusters under Insurance Code §§4003.006, 4004.055, 4101.061, 4102.064, and 4102.065. The proposed text of §19.810(f) has been changed in response to comments.

Because TDI currently licenses more than 300,000 Texas resident individuals subject to this requirement, implementation of this provision is a significant project. TDI will implement it on a going forward basis for individuals taking action to have a license renewed or reissued on or after June 1, 2018. Prior to that date, license renewal and reissuance applications will be processed under procedures on the date of the application. On and after June 1, 2018, automatic fines under §19.1016 will also change, because TDI anticipates that implementation of this section coupled with the electronic tracking of continuing education hours of all licensees will further reduce the number of licensees failing to complete the continuing education requirement.

Section 19.810(a) addresses license types that are not subject to the requirements of the section. Section 19.810(b) provides that §19.803 relating to military service members, military veterans, and military spouses, controls over §19.810. Section 19.810(c) addresses the procedure for renewal of a license that has not expired. Section 19.810(d) provides that if the licensee fails to comply with subsection (c), the license will expire.

Section 19.810(e) addresses the procedure for renewing a license that has been expired for 90 days or less. Section 19.810(f) addresses the effect of renewal or nonrenewal of expired licenses. If the applicant renews the license before the expiration, or renews the license during the 90 day period after the license expires, the license will be renewed as of the expiration date without lapse. If the licensee does not renew the license prior to the end of the 90 day period, the license cannot be renewed, and will be considered to have expired as of the expiration date. These actions

are required under Insurance Code §4003.007 and §4102.065, which provide that a license that has been expired for more than 90 days cannot be renewed.

Section 19.810(g) and (h) address the procedure for applying for a new license after the expiration of the 90 day period. These actions are required under Insurance Code §§4003.007, 4101.061, and 4102.065.

For reasons stated in the responses to comments section of this adoption, TDI has changed the text of §19.810(f) as proposed. The change adds the statement "as provided in subsection (g) or (h) of this section" to the end of §19.810(f). The change clarifies that the procedure for obtaining a new license after failing to timely renew the license as described in §19.810(f) is to be the procedure set forth in §19.810(g) or (h). The change does not add additional costs or affect persons not on notice of the proposal.

Subchapter K. Continuing Education, Adjuster Prelicensing Education Programs, and Certification Programs.

§19.1003

Section 19.1003(a) is amended to reflect the SB 876 amendment of Insurance Code §4004.053 and §4102.109 to reduce the number of required continuing education hours for certain licensees as addressed by the section from 30 hours per reporting period to 24 hours per reporting period. This change does not affect licensees subject to the 10 hour continuing education requirement. The list of license types subject to the 10 hour continuing education requirement is revised to make the subsection easier to read.

Section 19.1003(a)(1) and (2) list requirements for completing continuing education and the application of certain hours. Most of these requirements have been drawn from prior provisions in §19.1003(a), (d) and (f) and listed here for convenience. The first sentence of §19.1003(a)(1)(A) is drawn from prior §19.1003(d). The second sentence is added because license alignment under Insurance Code §4003.001 has also aligned continuing education reporting periods.

Parts of prior §19.1003 have been relocated and redesignated within subsection (a) as part of the amendment. Adopted §19.1003(a)(1)(B) is from prior §19.1003(a). Adopted §19.1003(a)(1)(C) is from prior §19.1003(f). Adopted §19.1003(a)(1)(B) is from the last sentence of prior §19.1003(a). Adopted §19.1003(a)(2)(A) is drawn from prior §19.1003(d), but revised to

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add two exceptions. Adopted §19.1003(a)(2)(B) is also drawn from prior §19.1003(d). Adopted §19.1003(a)(2)(C) is new and addresses counting credit hours needed to comply with Insurance Code §4004.055.

Section 19.1003(b) is amended to reflect the requirement in Insurance Code §4004.051(a) that completion of continuing education is required as a condition of licensure and the requirements in Insurance Code §4004.053 and §4102.109 to complete the required number of continuing education hours. Section 19.1003(b) clarifies that the licensee must complete the amount of continuing education required for the license because the licensee held the license during the reporting period. It is not an exception to completing continuing education that the licensee chose to cancel the license prior to its expiration or chose not to renew the license. Section 19.1003(b) also clarifies that reaching the maximum number of required continuing education hours is not an exception to completing continuing education required to maintain voluntary certifications under §§19.1022 – 19.1029.

Section 19.1003(c) is amended to conform to TDI style guidelines.

Prior §19.1003(d) has been redesignated in adopted §19.1003(a)(1) and (2), as previously discussed. Prior §19.1003(e) is redesignated as adopted §19.1003(d) and amended to revise the 30-hour requirement to 24, to clarify prorated continuing education requirements, and to conform to TDI style guidelines. Section 19.1003(d)(2) amends the proration formula for licensees subject to the 10-hour continuing education requirement as set forth in Figure 19.1003(d)(2). The adoption spreads the continuing education requirement more evenly over the entire 24 month licensing period compared to the prior requirement that prorated the 10 required continuing education hours at the rate of one hour for each month of licensure during the 24 month period.

Section 19.1003(e) establishes continuing education requirements for Texas home state adjusters. Section 19.1003(e) requires Texas home state adjusters to complete continuing education under the same requirements as Texas resident adjusters. Section 19.1003(e) further addresses the licensee's continuing education requirement if the Texas designated home state adjuster converts to a Texas resident adjuster during the reporting period.

Prior §19.1003(f) has been redesignated as adopted §19.1003(a)(1)(C), as previously discussed.

§19.1004

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Section 19.1004(a) is amended to update a reference to include adopted new subsection (g) of the section and to conform to TDI style guidelines.

Section 19.1004(b) is amended to reflect the statutory provisions under which individuals qualifying for this continuing education exemption would have been licensed. Section 19.1004(b) is also amended to conform to TDI style guidelines. The text of §19.1004(b) as proposed has been changed to remove two hyphens and add a comma. The change does not affect any other rule, change a requirement, or add an additional cost.

Section 19.1004(c) is amended to reflect that TDI now has electronic records that can identify licensees that qualify for the continuing education exemption in this subsection. Licensees will no longer need to request the exemption from TDI; however, licensees may request that TDI evaluate their status. Licensees may not claim the exemption prior to receiving written notice from TDI or TDI's designee that they qualify. Section 19.1004(c) is also amended to conform to TDI style guidelines.

Section 19.1004(d) is amended to apply the exemption to designated home state adjusters. Section 19.1004(d) is also amended to remove a requirement related to nonresident agents relocating to Texas, because it is no longer required. Under Insurance Code §4056.059 and §19.809, these individuals must obtain a Texas resident license that would result in them being required to complete Texas continuing education on a prorated basis under §19.1003(d). TDI has changed the word "educations" in the proposed §19.1004(d)(2) text to "education." The change does not affect any other rule, change a requirement, or add an additional cost.

Section 19.1004(e) is amended to clarify the requirement for requesting an exemption for illness, disability, or circumstances beyond the licensee's control, and to eliminate the blanket requirements for medical and insurance records under the prior rule.

To assist readers in identifying possible exemptions, §19.1004(f) is amended to reference continuing education exemptions for military service members that are addressed in §19.803(c) and (f).

Section 19.1004(g) is added to incorporate into the section the exemption for risk managers under Insurance Code §4153.055. Because the risk manager license type does not have a direct continuing education requirement, this exemption applies to continuing education requirements for other license types that a risk manager might hold.

Prior §19.1004(g) is redesignated as subsection (h), and it is amended to establish the procedure for funeral prearrangement life insurance agents and life insurance not exceeding \$25,000 agents to claim the continuing education exemption under Insurance Code §4054.159 and §4054.207.

§19.1010

Section 19.1010(a)(1),(2)(D),(3), and (4) are amended to change the allowed number of hours that TDI will approve for any one classroom course to 24 hours and for any one self study course to 12 hours. The change is based on the reduction in the number of hours that a licensee is required to complete under Insurance Code §4004.053, and the maximum number of self study hours allowed under Insurance Code §4004.051(c). Section 19.1010 is also amended to conform to TDI style guidelines.

§19.1013

Section 19.1013(c) is amended to provide that continuing education must be completed and documented as required under Insurance Code §4004.055 and §19.810. Section 19.1013 is also amended to conform to TDI style guidelines.

§19.1016

Section 19.1016(a)(1) is amended to allow for electronic options in paying automatic fines assessed under the section. Section 19.1016(a)(2) is amended to incorporate disciplinary provisions related to public insurance adjusters that are similar to the prior listed disciplinary provisions that apply to agents and adjusters and to make the paragraph easier to read.

Section 19.1016(b) and (c) result from splitting prior §19.1016(b). Amended §19.1016(b) addresses only automatic fines for licensees. The fine for failure to complete the continuing education requirement remains \$50 per credit hour not completed, but following the implementation of §19.810 will change to not exceed \$500 per license, per reporting period. Section 19.1016(c) addresses automatic fines for providers and is renumbered. Section 19.1016 is also amended to conform to TDI style guidelines.

§19.1019

Section 19.1019(a) is amended to provide that home office salaried employees must complete 15 hours of continuing education annually. The change is necessary because the home office salaried employee continuing education requirement is set at 15 hours annually in Insurance

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Code §4051.302(a) and was not affected by the amendments to Insurance Code §4004.053 in SB 876. Section 19.1019(a) is also amended to incorporate Insurance Code Chapter 4004 requirements which otherwise apply to home office salaried employees under Insurance Code §4004.302(c). In addition, §19.1019 is amended to conform to TDI style guidelines.

Subchapter N. Licensing and Regulation of Risk Managers.

§19.1310

Section 19.1310(a) is amended to update the examination procedure. Section 19.1019(b) is amended to include the certified risk manager designation as an exemption from the examination requirement. Prior §19.1310(h) is redesignated as subsection (c). In addition, §19.1310 is amended to conform to TDI style guidelines. The remainder of §19.1310 is deleted, because TDI has a designated testing service which administers these functions under Insurance Code §4002.051.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: TDI received five written comments. One individual commented in support of the proposal. Commenters in support of the proposal with changes were: the Association of Fire and Casualty Companies of Texas, Blue Cross and Blue Shield of Texas, Independent Insurance Agents of Texas, the Insurance Council of Texas, and the Texas Association of Life and Health Insurers.

§19.801

Comment on §19.801(c)(3)(C).

A commenter suggests that proposed §19.801(c)(3)(C) as proposed could be interpreted to indicate that the subagent that is being appointed must have a direct appointment from the insurer to represent and act as an agent for the insurer. The commenter recommends that TDI make clear that only directly appointed agents may appoint subagents based on Insurance Code §4001.205(a), and that the agent appointed by the insurer is responsible for notifying TDI of all subagent appointments.

Agency Response to Comment on §19.801(c)(3)(C).

TDI disagrees with the comment. The proposal does not change any requirement in Insurance Code §4001.205. Section 19.8903(c)(3)(C) states the requirement in Insurance Code §4001.205(a) that the agent appointing the subagent must have a direct appointment from the insurer. Insurance Code §4001.205(b) requires the appointing agent to notify TDI of the appointment and is not affected by the reference.

However, TDI agrees to revise the proposed text to clarify the section. TDI has changed §19.801(c)(3) to reference "Insurance Code §4001.205" in §19.801(c)(3) so that it reads: "Subagent appointments must comply with Insurance Code §4001.205, including the following requirements:..." This will add certainty that §19.801(c)(3) applies Insurance Code §4001.205. Because §19.801(c)(3) now refers to Insurance Code §4001.205, TDI has removed the reference to "Insurance Code §4001.205" from §19.801(c)(3)(C) and revised that subparagraph to read: "the appointing agent must have a direct appointment from the insurer that the subagent is being appointed to represent and act for as an agent." The changes do not add additional costs or affect persons not on notice of this proposal.

§19.804

Comment on §19.804(b).

Several commenters express concern that the proposed designation of a "responsible agent" was inconsistent with Insurance Code Chapter 4001. The commenters also state that TDI's reference to "control" as defined in Insurance Code §4001.003 require the agent to have at least a 10 percent ownership position in the entity. Further, the commenters state that Insurance Code §4001.106(b)(2) did not require designation of the officer or active partner as being responsible for administering the entity's Texas insurance operations, or require the agent to be a contact person for communicating with TDI.

Agency Response to Comment on §19.804(b).

TDI disagrees with the comment. As stated in the proposal, TDI has looked to the licensed individual officer or active partner that is required for licensure of the entity under Insurance Code §4001.106(b)(2) as a point of contact for TDI and to represent the entity in its communications with TDI. TDI has used this approach for dealing with entity license holders since SB 414 was

enacted in 2001. TDI will continue this approach and continue to apply the provisions of Insurance Code §4001.106(b)(2).

However, to address the commenters' concerns TDI has decided to change §19.804(b). The changes will remove language designating the officer or active partner as the "responsible agent" and required point of contact for the entity license holder responsible for administering the applicant entity's insurance operations in Texas, including filings with TDI and responses to inquiries. TDI has also removed references to "control."

The proposal did not require the individual officer or partner to have a particular ownership interest in the entity license holder. Under Insurance Code §4001.003, "Control means the power to direct or cause the direction of the management and policies of a license holder, whether directly or indirectly." The ownership interest provisions listed in Insurance Code §4001.003(3)(A) and (b) and cited by the commenters are not "control," but presumptions of when "a person is considered to control."

Additionally, the statute does not indicate that ownership is not the only circumstance that TDI can consider for control. Insurance Code §4001.106(b)(7) requires TDI to evaluate the qualifications of officers, directors, members, managers, partners, and other persons who have the right or ability to control an entity license applicant. Insurance Code §4001.106(b)(7) does not identify any of these persons based on ownership of the entity. Rather, the ownership presumptions in Insurance Code §4001.003(3)(A) and (b) establish a threshold for TDI to review persons under Insurance Code §4001.106(b)(7) who have an ownership interest in the license holder, but are not an officer, director, manager, member, or partner.

TDI has not changed the proposed requirement that an officer or active partner necessary for compliance with Insurance Code §4001.106(b)(2) must hold the same or greater license authority as the entity, based on lines the individual agent and entity are authorized to write. TDI has changed the requirement from "The licensed officer or active partner" to "A licensed officer or active partner" to indicate that the requirement for the entity in having multiple license types may be met through the different license types of several individuals. But such an officer or active partner would be included within the scope of "person acting on behalf of the licensed entity" under §19.804(c) and subject to the requirements in that subsection. TDI has also changed

references from "agency" to "entity license holder," for consistency with the terms "entity" and "entity license" used in §19.801 and §19.804(a).

The changes to the proposed text of §19.804(b) necessitate removing the numbering for proposed paragraphs (1) and (2) of subsection (b), as the proposed text that is retained in the adoption is incorporated into subsection (b). Subparagraphs (A) and (B) as included in proposed paragraph (2) are adopted as paragraphs (1) and (2) in subsection (b).

The changes to §19.804(b) do not add additional costs or affect persons not on notice of this proposal.

Comment on §19.804(b).

Several commenters state that the requirement that an officer or active partner have the right or ability to control the entity as the term is defined in Insurance Code §4001.003(2) would effectively eliminate the ability of persons without an agent license from owning 100 percent of the license holder.

Agency Response to Comment on §19.804(b).

TDI disagrees with the comment. As stated in response to a prior comment on §19.804(b), TDI does not consider control to be based solely on ownership. Also, TDI did not intend to require the individual agent to have a particular ownership interest in the entity license holder. Entity license holder ownership structures vary, including most if not all of the for-profit structures authorized under the Texas Business Organizations Code. The proposal did not contemplate changing the structure of any licensed entity. TDI has not made any additional changes based on this comment.

Comment on §19.804(b).

Several commenters assert that the statute does not require the designation of a "responsible person." They clarify that they understand that TDI may need a designated person to make filings with TDI and respond to TDI requests, but that this responsibility should not require control as that term is defined in Insurance Code §4001.003(2).

Agency Response to Comment on §19.804(b).

TDI agrees that the term "responsible person" is not used in statute. It is a reference used in the section to designate the individual. TDI disagrees with the comment to the extent that a licensed officer or active partner required under Insurance Code §4001.106(b)(2) should not be in a position to have the power to direct or cause the direction of the management and policies of the license holder. If the individual officer or active partner has no power to direct or cause the direction of the management and policies of the license holder, then the individual is little different than an employee or contractor, which renders the requirement in Insurance Code §4001.106(b)(2) that the person be an officer or active partner meaningless. As previously stated, TDI does not consider that the control must be absolute or that it is limited to ownership.

As stated in response to a prior comment, TDI has removed the term "responsible agent" from §19.804. TDI has not made any additional changes based on this comment.

Comment on §19.804(b).

Several commenters assert that Insurance Code §4001.008 provides that the Commissioner is the agent for service of process for a corporation or partnership that is licensed and does not appoint or maintain an agent for service of process.

Agency Response to Comment on §19.804(b).

TDI disagrees with the comment. As proposed, §19.804(b) did not affect an entity license holder's ability to appoint an agent for service of process, or Insurance Code §4001.008. TDI has not made any additional changes based on this comment.

Comment on §19.804(b).

Several commenters suggest that §19.804(b) should be amended, because insurance entities that control corporate entities seldom require the individual officer to be responsible for the administration of the insurance operations. The commenters state that these entity license holders are controlled by the shareholder that is authorized to elect the directors and officers.

Agency Response to Comment on §19.804(b).

TDI disagrees with the comment that administration or control of an entity license holder is exclusively vested in an entity's shareholders. Generally, shareholders elect directors, who in

turn appoint officers. Officers would administer the day-to-day operations of the entity. TDI has not made any additional changes based on this comment.

§19.805**Comment on §19.805.**

A commenter states that allowing individuals to apply prior to passing the required examination is pointless and would cause delays and wasted time, potentially creating a licensing backlog for TDI.

Agency Response to Comment on §19.805.

TDI appreciates the comment and considers this comment to be supportive of the proposed requirement in §19.805(b). TDI has made no changes in response to this comment.

§19.810**Comment on §19.810(f).**

A commenter suggests that §19.810 is unclear concerning the statutory requirement in Insurance Code §4003.007 and §4102.065 that a license cannot be renewed until the person applies for and obtains a new license if the licensee does not renew the license within the 90 days after the date the license expires. The commenter recommends that TDI make clear that, consistent with the Insurance Code, a person whose license has been expired for more than 90 days may not renew the license, but is entitled to a new license either with or without taking the applicable examination, as applicable. The commenter says including such a clarification will help avoid confusions and will align the language of the rule with the text of the Insurance Code.

Agency Response to Comment on §19.810(f).

TDI disagrees with the comment. A reader reviewing §19.810 should read all of the subsections in context. This will provide a complete procedure in line with statute, including Insurance Code §4003.007 and §4102.065. Section 19.810(g) and (h) state the procedure for obtaining a new license by application and examination, if required, if the licensee does not renew the license within the 90 days after the date the license expires.

However, TDI has revised the section as adopted to add clarification. TDI has added the statement "as provided in subsection (g) or (h) of this section" to the end of §19.810(f). The change

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makes certain that the procedure for obtaining a new license after failing to timely renew the license as described in §19.810(f) is set forth in §19.810(g) and (h). The change does not add additional costs or affect persons not on notice of the proposal.

SUBCHAPTER I. GENERAL PROVISIONS REGARDING FEES, APPLICATIONS, AND RENEWALS.

§§19.801 and 19.803 – 19.810

STATUTORY AUTHORITY. Amended §19.801 and new §§19.803 – 19.810 are adopted under Insurance Code §§4001.005, 4001.006, 4001.102, 4001.202, 4001.205, 4003.002, 4101.005, 4101.061, 4102.004, 4153.003, and 36.001; and Occupations Code §55.002 and §55.004.

Insurance Code §4001.005 provides that the Commissioner may adopt rules necessary to implement Insurance Code Title 13.

Insurance Code §4001.006 requires TDI to set a nonrefundable appointment fee for each appointment of an agent by an insurer.

Insurance Code §4001.102 provides that the Commissioner by rule prescribe the requirements for a properly completed application.

Insurance Code §4001.202 requires TDI to set a nonrefundable appointment fee for each additional appointment of an agent by an insurer.

Insurance Code §4001.205 requires TDI to set a nonrefundable appointment fee for each appointment of an agent as a subagent.

Insurance Code §4003.002 provides that the Commissioner may adopt by rule a system under which licenses expire on various dates during a licensing period.

Insurance Code §4101.005 provides that the Commissioner may adopt rules necessary to implement Insurance Code Chapter 4101.

Insurance Code §4101.061 provides that expiration and renewal of a license issued under Insurance Code Chapter 4101 are governed by rules adopted by the Commissioner.

Insurance Code §4102.004 provides that the Commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

Insurance Code §4153.003 provides that the Commissioner may adopt rules necessary to carry out Insurance Code Chapter 4153 and to regulate risk managers.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the department's powers and duties under the Insurance Code and other laws of this state.

Occupations Code §55.002 provides a state agency that issues a license shall adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency, that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

Occupations Code §55.004 provides that a state agency that issues a license shall adopt rules for the issuance of the license to an applicant who is a military service member, military veteran, or military spouse and holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state, or held the license in Texas within the five years preceding the application date.

TEXT.**SUBCHAPTER I. GENERAL PROVISIONS REGARDING FEES, APPLICATIONS, AND RENEWALS.****§19.801. General Provisions.**

(a) Completed application. An applicant must provide all information required of the applicant by statute and TDI rule.

(b) Original application. In this subchapter, an original application is an application for any license type not currently held by the applicant.

(1) Individual application. An original application for an individual license must include the following information:

(A) the individual's:

- (i) name;
- (ii) date of birth;

- (iii) social security number;
 - (iv) mailing address, physical address, and email address;
 - (v) phone number; and
 - (vi) professional background and criminal history information; and
- (B) other applicable information required by statute or rule, including:
- (i) a complete set of the applicant's fingerprints, using the procedures and requirements under Chapter 1, Subchapter D, of this title;
 - (ii) for adjuster applicants, documentation of the successful completion of the applicable adjuster examination or prelicensing course as required under Insurance Code §4101.054 and §4101.056; and
 - (iii) for public insurance adjuster applicants, evidence of financial responsibility and a sample contract as required under §§19.705 - 19.711 of this title.

(2) Entity application. An original application for an entity license must include the following information:

- (A) the name of the entity;
- (B) the entity's federal employer identification number;
- (C) information regarding the location and means of contacting the entity;
- (D) disclosures regarding regulatory actions, criminal actions, and litigation history;
- (E) the amount and type of financial responsibility applicable to the license type;
- (F) the name, license information, and a complete set of fingerprints, using the procedures under Chapter 1, Subchapter D, of this title, of at least one individual who is an officer or active partner of the entity and holds, or is applying for, the same license type sought by the entity;
- (G) the biographical information of all individuals in control of the entity, including the individual's:
 - (i) name;
 - (ii) date of birth;
 - (iii) social security number;

(iv) mailing address, physical address, and email address;

(v) phone number;

(vi) professional background and criminal history information;

(vii) a complete set of each individual's fingerprints, using the procedures under Chapter 1, Subchapter D, of this title; and

(H) other applicable information required by statute or rule, including information required for public insurance adjusters under §§19.705 - 19.711, including the sample contract.

(c) Appointment.

(1) An appointment authorizes an agent to represent and act as an agent for an insurer, as defined in Insurance Code §4001.003(6). An agent must be appointed directly by an insurer, or as a subagent by a general lines agent, personal lines property and casualty agent, or life agent.

(2) An appointment fee of \$10 must accompany each notice of appointment.

(3) Subagent appointments must comply with Insurance Code §4001.205, including the following requirements:

(A) only general lines agents, personal lines property and casualty agents, or life agents may appoint subagents;

(B) only general lines agents, personal lines property and casualty agents, or life agents may be appointed as subagents;

(C) the appointing agent must have a direct appointment from the insurer that the subagent is being appointed to represent and act for as an agent; and

(D) general lines agents, personal lines property and casualty agents, and life agents may simultaneously have multiple subagent and insurance company appointments.

(d) Subagents.

(1) As provided in Insurance Code §4001.109, a subagent must be licensed to write each line of insurance that the subagent is employed to write, but is not required to hold each type of license issued to the agent for whom the subagent acts; and

(2) an agent may not allow a subagent to write a line of business that the agent is not licensed to write or that the subagent is not licensed to write.

(e) Submission of fees. All fees must be submitted as directed by:

- (1) the original or renewal application;
- (2) the appointment form;
- (3) TDI's designated testing service;
- (4) Texas.gov; or
- (5) other TDI designated service provider.

(f) Fees fully earned and not refundable or transferable. All fees are fully earned at the time the application, registration, or appointment is submitted, and they are not refundable or transferable to another application, registration, or appointment. These fees may not be reduced for any reason, except as authorized by statute or rule.

(g) Examination and examination fees.

(1) TDI administers examinations through its designated testing service. If TDI should cease to use a designated testing service, TDI will directly administer the examinations and all references in this subchapter to TDI's designated testing service will apply to TDI.

(2) All examination fees for any license type, whether administered by TDI or TDI's designated testing service, are fully earned when the examination is scheduled and are not refundable or transferable to any other applicant or examination, except when approved by TDI as provided under Insurance Code §4002.005(c). A separate fee is required for each examination and reexamination. Examination fees may not be reduced for any reason, except as authorized by statute or rule.

§19.803 Military Service Member, Military Veteran, and Military Spouse.

(a) Definitions. The definitions for terms defined in Occupations Code §55.001 are applicable to this section, including the terms "military service member," "military veteran," and "military spouse."

(b) Conflict. To the extent that provisions in this section conflict with provisions in any other section in this chapter, this section controls.

(c) License renewal extension and fee exemption. As specified in Occupations Code §55.003, a military service member who holds a license is entitled to two years of additional time

to complete any requirements related to the renewal of the military service member's license as follows:

(1) A military service member who fails to renew a license in a timely manner because the individual was serving as a military service member must submit to TDI:

(A) the licensee's name, address, and license number;

(B) the licensee's military identification indicating that the individual is a military service member; and

(C) a statement requesting up to two years of additional time to complete the renewal, including continuing education.

(2) A military service member specified in paragraph (1) of this subsection is exempt from additional fees required under §19.810 of this title as required in Occupations Code §55.002.

(3) A military service member specified in paragraph (1) of this subsection is entitled to two additional years to complete the continuing education and submit a renewal as specified in Occupations Code §55.003.

(4) A military service member specified in paragraph (1) must satisfy the continuing education requirement that has been extended prior to satisfying the continuing education requirement for any other period.

(d) Alternative and nonresident reciprocal licensing. As specified in Occupations Code §55.009:

(1) a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for the license; or

(2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license is not required to pay any applicable application fee or examination fee that is paid to TDI. This exemption does not apply to license renewal application fees. To qualify for this exemption the applicant must submit as applicable:

(A) the required original license application, with a request for waiver of the application fee and examination fee paid to TDI;

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(B) identification indicating that the applicant is a military service member; military veteran; or military dependent, if a military spouse;

(C) marriage certificate or documentation, if a military spouse and marriage is not otherwise documented in the documentation provided under paragraph (2) of this subsection; and

(D) documentation that the applicant's military service, training, or education substantially meets all of the requirements for the license.

(e) Alternative licensing requirements. For the purpose of Occupations Code §55.004, an applicant for a license who is a military service member, military veteran, or military spouse may complete the following alternative procedures for licensing.

(1) Requirements for licensing by reciprocity. A nonresident license applicant may apply for a nonresident license subject to the qualifications and as provided in subsection (c) of this section.

(2) Requirements for an applicant whose Texas resident license has expired for more than one year. A license applicant whose Texas resident license has expired for more than one year but less than five years preceding the application date may request that TDI waive the examination requirement. An applicant requesting this waiver must submit to TDI:

(A) the required original license application;

(B) identification indicating that the applicant is a military service member; military veteran; or military dependent, if a military spouse;

(C) a marriage certificate or documentation, if a military spouse and marriage is not otherwise documented in the documentation provided under subparagraph (B) of this subsection;

(D) evidence that the applicant has completed all required continuing education for the periods the applicant was licensed, and paid all required fines, as required under §19.810 of this title; and

(E) a request for waiver demonstrating the applicant's credentials that justify waiver of the licensing examination.

(f) Service in a combat theater. A military service member serving in a combat theater, as provided for in Insurance Code §36.109, may apply to TDI for an exemption from or an extension

of time for meeting the continuing education requirements or extending their license renewal. The licensee must request the exemption or extension prior to the end of the reporting period for which it applies and must include:

- (1) a copy of the order to active duty status, service in a combat theater, or other positive documentation of military service that will prevent the licensee from compliance;
- (2) a clear request for either an extension or exemption, or both;
- (3) the expected duration of the assignment; and
- (4) any other information the licensee believes may assist TDI or that TDI requests, on a case by case basis.

§19.804. Application for a New Entity License.

(a) An entity applicant for new license must submit a completed original application to TDI.

(b) A licensed individual officer or active partner, required for an entity license, must hold the same or greater license authority as the entity, based on lines the agent and entity are authorized to write. For example:

- (1) a county mutual agent may only be the agent for a county mutual insurance entity license holder; and
- (2) a general lines property and casualty agent may be the agent for a county mutual insurance entity license holder, or any other type of property and casualty insurance entity license holder.

(c) Each person acting on behalf of the licensed entity:

- (1) may act for the entity only within the authority of the entity's license;
- (2) must be appointed directly by an insurer or as a subagent as provided in §19.801(c) of this title; and
- (3) must hold a license authority qualifying that person to act that is separate from the entity's licensed authority. The agent may not exceed the agent's licensed authority even if the entity license holder has a greater license authority.

§19.805. Application for a New Individual License.

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(a) This section does not apply to:

(1) a provisional permit issued under Insurance Code Chapter 4001, Subchapter H, and §19.806 of this title;

(2) a temporary license issued under Insurance Code Chapter 4001, Subchapter D, and §19.807 of this title;

(3) home office salaried employees operating under Insurance Code Chapter 4051, Subchapter G, and §§19.3001 - 19.3005 of this title; or

(4) specialty agent licenses issued under Insurance Code Chapter 4054 and §§19.1901 - 19.1910 of this title.

(b) Examination required. Unless exempt by applicable statute or rule, all license applicants must successfully complete the applicable license examination to be eligible for licensure.

(1) Except as provided in paragraph (2) of this subsection:

(A) an applicant must submit:

(i) the required examination fee to TDI's designated testing service when the examination is requested; and

(ii) a complete original application, the original application fee, and all required fees, to TDI, or TDI's designated testing service, when the application is submitted; and

(B) TDI must receive the score report from TDI's designated testing service showing successful completion of the applicable examination within the 12 month period preceding the completed application being received by TDI.

(2) An applicant qualifying for a license through an insurance carrier administered examination under Insurance Code Chapter 4051 Subchapter E or Chapter 4054 Subchapters D or E, must submit to TDI:

(A) all required fees at the time of filing an original application for license; and

(B) a completed original application with an appointment from the insurance carrier administering the examination indicating successful completion of the applicable examination within the 12 month period preceding the completed application being received by TDI.

(c) Examination not required. An applicant who is not required to qualify for a license by examination must submit to TDI the original application fee and all required fees at the time of submitting to TDI a completed original application.

(d) Continuing education requirement. On and after June 1, 2018, an applicant for a new license who previously held a license under Insurance Code Title 13 that was issued or renewed on or after November 1, 2015, must provide to TDI evidence of completion of the prior license continuing education requirements or payment of the applicable fines for failure to complete the continuing education, as required under Insurance Code §4004.055 and §19.810 of this title.

§19.806. Application for a Provisional Permit.

An applicant for a provisional permit must be an individual Texas resident and must apply for a license type listed in Insurance Code §4001.353(a).

(1) An applicant must submit the required examination fee to TDI's designated testing service when the examination is requested, unless:

(A) the applicant is exempt from the examination; or

(B) the application is for a license listed under Insurance Code §4001.353(a) that is administered by the insurance carrier; and

(2) Except as provided in paragraph (3) of this section, if the applicant is exempt from the examination, or after successfully completing the required licensing examination within the preceding 12 month period, the applicant must submit to TDI a completed original application, including a request for a provisional permit, and all required fees, including the original application fee and provisional permit fee.

(3) Applicants for a license listed under Insurance Code §4001.353(a) that is administered by the insurance carrier must also submit with the application an appointment from the insurance carrier administering the licensing examination indicating successful completion of the applicable examination within the preceding 12 month period.

§19.807. Application for a Temporary License.

(a) An applicant for a temporary license must be an individual Texas resident and must submit to TDI's designated testing service:

(1) the fully completed temporary license application and original application for license; and

(2) all required fees, including the original application fee, and the temporary license fee, when the completed temporary license application is submitted to TDI's designated testing service.

(b) To obtain the license beyond the temporary license period, the applicant must:

(1) submit the required examination fee when the examination is scheduled with TDI's designated testing service; and

(2) successfully complete the license examination within the temporary license period.

(c) As required under Insurance Code §4001.162(b), an agent, insurer, or health maintenance organization must comply with the following request and reporting standards to appoint more than 500 temporary license holders during a calendar year.

(1) The agent, insurer, or health maintenance organization must annually submit a written request to TDI:

(A) stating the number of additional temporary license appointments requested;

(B) stating the reason for the additional number of temporary license appointments;

(C) providing evidence of the compliance with Insurance Code §4001.161; and

(D) documenting the procedures and ability to train and monitor the additional temporary license appointments.

(2) TDI will approve all or part of the number of additional temporary license appointments if TDI determines that the agent, insurer, or health maintenance organization has provided evidence demonstrating the need for the additional temporary license appointments, evidence of its past compliance with Insurance Code §4001.161, and procedures and ability to train and monitor the additional temporary license appointments.

(3) If approved, an agent, insurer, or health maintenance organization must submit reports to TDI within 30 days of the end of each calendar quarter, documenting:

(A) the total number of temporary agents appointed during the calendar quarter and for the calendar year; and

(B) compliance with Insurance Code §§4001.151 - 4001.161 for all appointed temporary agents.

§19.808. The Initial Term of a New License and Renewal License Expiration.

(a) License expiration dates will be determined as provided in Insurance Code §4003.001. Individual licenses will expire at the end of the individual's birth month.

(b) If the applicant has an existing license and obtains another new license, the initial license period of the new license will be aligned:

(1) to the existing license's expiration date; or

(2) if the initial license period of the new license is less than six months based on the alignment of the license expiration date to the existing license expiration date, TDI will use the next expected renewal date of the existing license as the expiration date for the initial period of the new license.

(c) The original application fee for the new license under this section will not be reduced or increased based on the length of the initial license period.

§19.809. Nonresident Licensees Relocating to Texas.

To continue to be licensed, including as an agent, adjuster, or public insurance adjuster, a nonresident individual licensee who relocates to Texas during the existing license term must, within 30 days of relocating to Texas, submit to TDI a completed application that meets the requirements of Insurance Code §4056.059. TDI will make available on its website a form that the individual may use to comply with this requirement.

§19.810. License Renewal and Application for an Expired License.

(a) Applicability. This section becomes applicable to licensees and applicants on June 1, 2018. Prior to June 1, 2018, license renewal and reissuances will be processed under the regulations in effect prior to the adoption of this section. This section applies to the renewal of a license and

application for an expired license under Insurance Code Title 13 that was issued or renewed on or after November 1, 2015.

(b) Conflicts with other sections. To the extent that this section conflicts with §19.803 of this title in the application of this section and §19.803 to military service members, military veterans, and military spouses, §19.803 controls.

(c) Unexpired license. A licensee may apply for renewal of a license that has neither expired nor been suspended or revoked by:

(1) submitting to TDI the required renewal application fee and renewal application;
and

(2) completing the applicable continuing education requirement within the reporting period and prior to the expiration of the license, as required under Insurance Code §4004.055.

(d) Noncompliance with subsection (c) of this section. If the licensee does not comply with subsection (c) of this section, the license will not be renewed and will expire on the expiration date.

(e) Renewal of a license that has been expired for 90 days or less. A licensee may renew a license that has been expired for 90 days or less. The licensee must submit to TDI within 90 days after the license expiration date:

- (1) the required renewal application fee;
- (2) an additional fee equal to one-half of the required renewal application fee;
- (3) a completed renewal application; and
- (4) evidence demonstrating that the licensee has:

(A) completed the applicable continuing education requirement before the license expired; or

(B) completed continuing education after the license expired and paid all applicable fines as required under Insurance Code §4004.055.

(f) Effect of renewal or nonrenewal of expired license. If the licensee completes each item listed in subsection (d) of this section for an unexpired license as described, or completes each item listed in subsection (e) of this section within 90 days after the license expiration date, and the license is renewed, the license will be renewed effective as of the license expiration date. If the

licensee fails to complete each item listed in subsection (c) of this section prior to the expiration date, or subsection (d) of this section within 90 days after the license expiration date, as applicable, the license cannot be renewed, and the individual cannot engage in the business of insurance in the capacity granted by that license effective as of the license's expiration date and continuing until the individual obtains a new license as provided in subsection (g) or (h) of this section.

(g) License expired for more than 90 days. If an individual's license has been expired for more than 90 days, but less than one year, the individual may apply for the expired license without an examination. The individual must submit to TDI within one year after the date the license expired:

- (1) a new original application;
- (2) the required application fee;
- (3) an additional fee equal to one-half of the required application fee; and
- (4) evidence demonstrating that the licensee has:

(A) completed the applicable continuing education requirement before the license expired; or

(B) completed continuing education after the license expired and paid all applicable fines as required under Insurance Code §4004.055.

(h) License expired for one year or more. If an individual's license has been expired for one year or more, to obtain the expired license the individual must:

(1) complete the requirements for a new license described in §§19.805 - 19.807 of this title, including reexamination, if applicable; and

(2) for a license that expired, was canceled, revoked, or not renewed on or after November 1, 2015, evidence demonstrating that the licensee:

(A) completed the applicable continuing education requirement before the license expired; or

(B) completed continuing education after the license expired and paid all applicable fines as required under Insurance Code §4004.055.

SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING EDUCATION PROGRAMS, AND CERTIFICATION PROGRAMS.

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§§19.1003, 19.1004, 19.1010, 19.1013, 19.1016, and 19.1019

STATUTORY AUTHORITY. Amended §§19.1003, 19.1004, 19.1010, 19.1013, 19.1016, and 19.1019 are adopted under Insurance Code §§4001.005, 4001.102, 4003.002, 4004.052, 4005.109, 4101.005, 4101.060, 4101.061, 4102.004, 4153.003, and 36.001; and Occupations Code §55.002 and §55.004.

Insurance Code §4001.005 provides that the Commissioner may adopt rules necessary to implement Insurance Code Title 13.

Insurance Code §4001.102 provides that the Commissioner by rule prescribe the requirements for a properly completed application.

Insurance Code §4003.002 provides that the Commissioner by rule may adopt a system under which licenses expire on various dates during a licensing period, and that the Commissioner adopt a system under which a person who holds more than one license may renew all the licenses held in a single process.

Insurance Code §4004.052 provides that the Commissioner may by rule provide for continuing education exemptions and extensions under §4004.052 and for other reasonable exemptions from the continuing education requirements of Insurance Code Chapter 4004.

Insurance Code §4005.109 provides that to expedite TDI's processing of certain violations of the Insurance Code, the Commissioner may by rule establish fines for certain violations.

Insurance Code §4101.005 provides that the Commissioner may adopt rules necessary to implement Insurance Code Chapter 4101.

Insurance Code §4101.060 provides that the Commissioner by rule establish the criteria for a continuing education extension or exemption.

Insurance Code §4101.061 provides that expiration and renewal of a license issued under Insurance Code Chapter 4101 are governed by Insurance Code §4003.001 and §4004.055, rules adopted by the Commissioner, and any applicable provision of the Insurance Code or another insurance law of this state.

Insurance Code §4102.004 provides that the Commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

Insurance Code §4153.003 provides that the Commissioner may adopt rules necessary to carry out Insurance Code Chapter 4153 and to regulate risk managers.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the department's powers and duties under the Insurance Code and other laws of this state.

Occupations Code §55.002 provides that a state agency that issues a license adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

Occupations Code §55.004 provides that a state agency that issues a license adopt rules for the issuance of the license to an applicant who is a military service member, military veteran, or military spouse and holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state or held the license in Texas within the five years preceding the application date.

TEXT.

SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING EDUCATION PROGRAMS, AND CERTIFICATION PROGRAMS.

§19.1003. Licensee Hour and Completion Requirements.

(a) Continuing education hour requirement. Except as provided in subsections (c) - (e) of this section, for each license and reporting period that the individual is licensed, each licensee must complete 24 hours of continuing education, except that licensees holding only a license issued under Insurance Code §4051.101 and §4051.102 (limited lines agent); §§4051.201 - 4051.206 (county mutual agent); §§4054.101 - 4054.103 (limited lines agent); and §§4054.201 - 4054.208 (life insurance not exceeding \$25,000 agent) must complete 10 hours of continuing education. The following requirements apply:

(1) licensees must:

(A) complete all required continuing education hours during the reporting period to avoid fines and be eligible to renew the license. A licensee who obtains a new license during the reporting period for an existing license held by the licensee may count all prior continuing education credits earned in the reporting period for the active license towards the new license if the licenses have the same expiration date;

(B) complete at least two hours of the licensee's continuing education requirement in certified ethics or consumer protection courses;

(C) complete at least 50 percent of the licensee's required continuing education hours in certified classroom or classroom equivalent courses; and

(D) complete the remainder of the continuing education requirement by completing certified courses applicable to any license type.

(2) Continuing education credit will not be granted for:

(A) any continuing education course credit received before the date the license is issued by TDI, including course credit earned while acting under a temporary license or a provisional permit, towards complying with the licensee's applicable continuing education requirement, except as provided in §19.1021 of this title and subsection (e) of this section;

(B) carry forward excess hours completed in one reporting period to a subsequent reporting period; or

(C) the current reporting period for any credit hours completed under Insurance Code §4004.055 to correct a shortage of hours in a previous reporting period.

(b) Maximum hour requirement. Licensees holding more than one license issued under the Insurance Code are not required to complete more than the number of continuing education hours required under their greatest single license requirement for a license held by the licensee during the reporting period, two hours of which must be in certified ethics or consumer protection courses, within each reporting period. This requirement applies even if the licensee chooses to cancel or nonrenew the license with the requirement. If the licensee is required to complete certain continuing education courses or course hours to maintain a voluntary certification, including certifications under §§19.1022 - 19.1029 of this title, the licensee must complete the requirement to maintain the certification even if the total number of hours would exceed the limit specified in this subsection.

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(c) Adjuster prelicensing education. Adjuster applicants seeking an examination exemption under Insurance Code §4101.056(a)(4) must complete both a certified adjuster prelicensing education course of not less than 40 hours, and pass the course examination testing the applicant's knowledge and qualifications set forth in this subchapter. Adjuster applicants must complete at least 30 hours of the course requirement through classroom or classroom equivalent course work.

(d) Prorated requirement. Licensees holding a license that was issued with a term of less than two years and those licensees who convert from nonresident to resident licenses during a reporting period, excluding adjusters with a license under which Texas is the designated home state, must complete continuing education hours based on a prorated schedule, as follows:

(1) for license types with a 24 hour requirement, one hour for each whole month between the issue or last renewal date of the license, or the date of Texas residency, to the end of the license period up to the maximum number of hours required for the license type during the reporting period; and

(2) for license types with a 10 hour requirement, the number of hours required in Figure: 28 TAC §19.1003(d)(2) for the license period between the issue date or last renewal date of the license, or the date of Texas residency, to the end of the license period up to the maximum number of hours required for the license type during the reporting period.

Figure: 28 TAC §19.1003(d)(2):

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License Period	Total Required Hours	Ethics
Less than 6 months	0	0
6 months up to and including 7 months	2	2
8 months up to and including 9 months	3	2
10 months up to and including 11 months	4	2
12 months up to and including 14 months	5	2
15 months up to and including 16 months	6	2
17 months up to and including 19 months	7	2
20 months up to and including 21 months	8	2
22 months up to and including 23 months	9	2

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a licensee is not required to complete continuing education for the reporting period if the prorated reporting period is less than six months; and

(4) a licensee may not apply hours completed prior to becoming a Texas resident licensee towards compliance with the continuing education requirement.

(e) Texas designated home state adjuster requirement. A designated home state adjuster licensee under which Texas is the designated home state must complete continuing educations under the same requirements as a Texas resident adjuster. A licensee that converts from the Texas designated home state adjuster license to a Texas resident adjuster license during the reporting period:

(1) must complete continuing education in the same manner as a Texas resident adjuster for the combined period the individual held the Texas designated home state adjuster license and the Texas resident adjuster license; and

(2) does not qualify for completing continuing education on a prorated basis if the licensee becomes a Texas resident between renewals of the Texas designated home state adjuster license.

§19.1004. Licensee Exemption from and Extension of Time for Continuing Education.

(a) Any exemption or extension granted to a licensee under subsections (b) - (g) of this section applies to all license types held by the licensee. Nothing within this subchapter may be construed as preventing TDI from auditing a licensee to confirm the continued existence of circumstances supporting the exemption or extension.

(b) An agent who held a Texas resident license issued under Insurance Code Article 21.07-1, as Group I, legal reserve life insurance agent or general lines life, accident, and health insurance agent; Article 21.07-3, as managing general agent; or Article 21.14, as local recording agent, solicitor, general lines property and casualty agent, or insurance service representative, for at least 20 years or more as of December 31, 2002, is exempt from completing the required number of continuing education hours in §19.1003 of this title. Agents must confirm that they qualify for this exemption by submitting a written request to TDI indicating that they have met the longevity requirement. TDI or TDI's designee will provide written notice that an agent qualifies for this exemption. Agents that qualified for the longevity exemption authorized under the Insurance Code prior to September 1, 2001, remain qualified and do not have to reapply for this exemption.

(c) A licensee who on or after January 1, 2003, has been continuously licensed by TDI for at least 20 years is exempt from completing the required number of continuing education hours in §19.1003 of this title. For purposes of this subsection "continuously licensed" means that the licensee has held a TDI issued license for the entire period of time without any lapse in excess of 90 days in which the licensee was not licensed or failed to renew a license. The exemption will apply beginning with the reporting period in which the licensee reaches the 20th year of licensure. TDI or TDI's designee will provide written notice to the licensee that a licensee qualifies for this exemption. Licensees may not claim the exemption prior to receiving written notice that they qualify for the exemption. Licensees may submit a written request to TDI to evaluate their longevity status.

(d) Nonresident licensees, are subject to the following requirements:

(1) A nonresident licensee, including an adjuster with a designated home state adjuster license issued by a state other than Texas, who is in compliance with the licensee's resident state's or adjuster's designated home state's continuing education requirements are not required to complete the continuing education requirement under this subchapter. A licensee may qualify for this exemption based on the following:

(A) the licensee's state of residence, or adjuster's designated home state, claimed in the licensee's original application;

(B) by sending written notification to TDI or its designee stating that the licensee is a resident of another state, or the adjuster has a designated home state other than Texas, with a certificate of good standing; or

(C) by sending any other document acceptable to TDI, showing that the licensee has a resident license or an adjuster's designated home state adjuster license in good standing in that state.

(2) A designated home state adjuster licensee who designates Texas as the licensee's home state is not exempt under this subsection and must complete continuing education under the same requirements as a Texas resident adjuster as required under §19.1003(e) of this title.

(e) Licensees who meet the criteria of illness, medical disability, or circumstances beyond the control of the licensee may apply for an exemption or extension of time to complete their continuing education requirement without incurring a fine or a waiver, in whole or in part, of the continuing education requirement. Business reasons do not constitute circumstances beyond the control of the licensee. TDI will establish the duration of the extension when it is granted. If the circumstances supporting the extension continue beyond the granted extension period, the licensee may reapply for an exemption or extension. The licensee's application must include the information set forth in paragraphs (1) - (6) of this subsection:

(1) a written statement of the exact nature of the illness, medical disability or other extenuating circumstances beyond the control of the licensee that have prevented or will prevent the licensee from completing the required hours within the reporting period;

(2) evidence regarding the illness or medical disability of the licensee and circumstances beyond the control of the licensee;

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(3) a written assessment of whether the condition is temporary, permanent, or unknown;

(4) a written statement as to whether the licensee will be able to perform activities including any acts of an agent or adjuster during the exemption or extension period being requested;

(5) the estimated date when the licensee will be able to perform any activities including any acts of an agent or adjuster in accordance with the medical reports or other documents pertaining to circumstances beyond the control of the licensee; and

(6) any other information that may be of assistance in evaluating the request.

(f) A military service member may request an exemption or extension as follows:

(1) a military service member is entitled to two additional years to complete the continuing education requirements specified in this subchapter and may request the extension under §19.803(c) of this title; and

(2) a military service member serving in a combat theater, as provided for in Insurance Code §36.109, may apply to TDI for an exemption from or an extension of time for meeting the continuing education requirements or extending the licensee's license renewal under §19.803(f) of this title.

(g) An individual holding a risk manager license is exempt from the continuing education requirements under this subchapter for any license held by the individual, if the individual demonstrates in writing to TDI that the individual has held one of the following designations listed in Insurance Code §4153.055 for a period of not less than 30 years:

- (1) certified insurance counselor,
- (2) associate in risk management, or
- (3) certified risk manager.

(h) A licensee holding only a funeral prearrangement life insurance agent license or a life insurance not exceeding \$25,000 agent license and meeting the requirements specified in Insurance Code §4054.159 or Insurance Code §4054.207 is exempt from completing the continuing education requirements in this subchapter. A licensee claiming this exemption must attest to meeting this requirement during each reporting period with the licensee's license renewal.

§19.1010 Hours of Credit.

(a) Credit hours for courses are determined by the methods set forth in paragraphs (1) - (7) of this subsection:

(1) TDI will award credit for certified classroom courses at the rate of one hour for every 50 minutes of actual instruction contact time. All classroom courses must be at least one hour of credit in length. TDI will award credit for additional partial hours of instruction contact time in half-hour increments with all periods of less than 25 minutes being awarded no additional credit and periods of less than 50 minutes being awarded one half-hour of additional credit. Instruction contact time is considered the amount of time devoted to the actual course instruction and does not include breaks, lunch, dinner, introductions of speakers, explanatory or preparatory instructions, or evaluation of the course. TDI will not certify more than 24 credit hours for any one classroom course.

(2) TDI will award credit for certified classroom equivalent and self study courses as set forth in subparagraphs (A) - (D) of this paragraph:

(A) The provider must determine the number of course hours by using either of the methods set forth in clauses (i) or (ii) of this subparagraph.

(i) The provider may determine the number of course hours by calculating the average completion time of the individual course completion times of at least five licensees. If the provider uses this method to determine the number of credit hours, the provider must retain the names, current insurance license numbers, and completion times of all licensees that were used by the provider. A provider using this method may, at its discretion, issue certificates of completion in the number of hours certified by TDI to the licensees involved in the process and who completed the entire course.

(ii) The provider may determine the number of course hours by calculating the average number of hours of the credit hours assigned by all other states in which the course is certified or approved. A provider may not use this method to determine the number of credit hours unless the course is approved in at least three other states. Providers may not include any hours allowed by other states for sales and marketing topics in calculating the average.

(B) All classroom equivalent and self study courses must be at least one hour of credit, 50 minutes, in length. TDI will award additional partial credit hours in half-hour

increments with all periods of less than 25 minutes being awarded no additional credit and periods of less than 50 minutes being awarded one half-hour of additional credit.

(C) Providers may not use the final examination and pre-tests for determining course hours or calculating an average.

(D) TDI will not certify more than 24 credit hours for any one classroom equivalent course or 12 credit hours for any one self study course.

(3) TDI will grant continuing education classroom credit to licensees successfully completing qualifying college, law school, and university insurance classroom courses, as determined by the college, law school, or university. The number of classroom hours of continuing education credit for college, law school, and university insurance courses is the number of classroom instruction contact hours not including examinations, which may be no more than 24 credit hours per course.

(4) TDI will grant 12 self study credit hours to licensees successfully passing qualifying national designation certification program examinations. Should the licensee also participate in and successfully complete a certified or qualifying classroom or classroom equivalent course in preparation for the national designation certification program examination, the licensee must choose either the classroom presentation or the national designation certification program examination to count as credit towards the licensee's continuing education requirement.

(5) Licensees who teach any portion of a certified continuing education classroom course may receive hour for hour classroom credit up to the maximum number of credit hours for the course. Licensees who teach courses may also be awarded an equal number of self study hours as credit for course preparation.

(6) TDI will grant continuing education classroom credit to licensees successfully completing qualifying courses certified or approved for classroom, classroom equivalent, or participatory credit by the continuing education authority of a state bar association or state board of public accountancy on an hour for hour basis equal to the credit hours assigned to the course by the certifying state bar association or state board of public accountancy. The state bar association or state board of public accountancy must determine what constitutes successful completion of the course. TDI will not grant licensees self study credit for any course accepted by a state bar

association or state board of public accountancy unless the self study course is offered through a registered provider in accordance with this subchapter.

(7) TDI will grant licensees continuing education credit for successfully completing courses certified or approved by the Federal Farm Credit Insurance Corporation on an hour for hour basis as assigned by the Farm Credit Insurance Corporation. The Farm Credit Insurance Corporation must determine what constitutes successful completion of the course.

(b) A provider must not issue certificates of completion to a licensee for partial credit of any course, except to an instructor teaching a portion of the course and who does not attend the full course.

(c) A licensee may not receive credit for teaching or completing the same continuing education course more than once within the same reporting period for compliance with the continuing education requirement.

(d) Providers may advertise and link courses as parts of a whole curriculum, but providers may not require a licensee to purchase more than one continuing education course to receive the credit hours approved for a single course.

§19.1013. Licensee Record Maintenance.

(a) Licensees and adjuster applicants must provide evidence of completion of courses to TDI or its designee upon request. Each licensee must maintain evidence of each course completed for a period of at least four years from the date of completion of the course for the purpose of investigation or audit. Licensees must continue to maintain evidence of compliance during any period in which the licensee has been notified by TDI or its designee that the records or the licensee's compliance is the subject of an investigation or audit.

(b) Types of course completion evidence of compliance may include:

- (1) a certificate of completion from a provider;
- (2) a college transcript;
- (3) a passing grade report from a national designation program;
- (4) a certificate or report of completed continuing education hours issued by a professional licensing authority or a provider of a course certified by a professional licensing authority; or

(5) a letter from the program sponsor's representative stating the number of hours the licensee taught.

(c) Absent written notification from TDI that the applicant is exempt from the continuing education requirement or a timely written request or notice for extension or exemption as required under Insurance Code §4004.052(a) and §19.1004(b) - (h) of this title, a renewal applicant or individual applying for an expired license must complete and document all continuing education as required under this section, Insurance Code §4004.055 and §19.810 of this title. TDI's renewal of any license does not relieve a licensee from compliance with the continuing education requirements for any reporting period and failure to obtain required continuing education hours without obtaining a prior exemption or extension shall subject the licensee to administrative action.

(d) It is the licensee's responsibility to comply with this subchapter and submit and maintain evidence that the licensee has completed the required continuing education hours. A licensee should immediately report to TDI or its designee any discrepancy the licensee discovers between a course taken by a licensee and the credit hours certified to the licensee by the provider.

§19.1016. Automatic Fines.

(a) Pursuant to Insurance Code §4005.109, TDI establishes the following procedure for automatic fines:

(1) All automatic fines must be paid as directed in the notice of fine within 30 calendar days after the date of issuance of the automatic fine under this section unless the fined party disputes the assessment of the automatic fine and files a written request for contested case hearing under Chapter 2001 of the Government Code within the 30-day period.

(2) If the assessment of the fine is disputed, TDI may, in its discretion, assert other matters and claims against the fined party at such hearing and also seek any disciplinary action available under Insurance Code Chapter 82; Insurance Code §§4005.101 - 4005.108, 4101.201, and 4102.201 - 4102.204; and this subchapter, including additional fine amounts in excess of the automatic fine amount.

(b) TDI adopts the following automatic fines for a licensee who fails:

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(1) to obtain the required number of continuing education hours and prior to June 1, 2018, attempts to renew a license, applies for an expired license, or applies for a new license — \$50 per credit hour not completed; or

(2) to obtain the required number of continuing education hours and on or after June 1, 2018, attempts to renew a license, applies for an expired license, or applies for a new license — \$50 per credit hour not completed, not to exceed \$500 per license, per reporting period.

(c) TDI adopts the following automatic fines for providers:

(1) failing to issue a properly completed certificate of completion within 30 days following completion of course — \$100 per certificate;

(2) providing a course to students prior to course certification — \$200 per student, per instance;

(3) providing a course to students after course certification has expired — \$200 per student, per instance;

(4) providing an assigned course to students prior to approval of the assignment — \$200 per student, per instance; and

(5) providing an assigned course to students after the assignment has expired — \$200 per student, per instance.

§19.1019. Full-Time Home Office Salaried Employees.

(a) Full-time home office salaried employees registered under Insurance Code §4051.301 and §19.3003 of this title must complete 15 hours of continuing education annually, including at least two hours in certified ethics or consumer protection courses. Insurers employing full-time home office salaried employees must provide the employees with instruction regarding the disclosure required by Insurance Code §4051.301(c) and those subjects listed in Insurance Code §4051.302(d). Registered employees must complete at least 50 percent of their required continuing education hours in certified classroom or classroom equivalent courses.

(b) An insurer employing full-time home office salaried employees may provide its employees with continuing education internally if the insurer registers as a provider and complies with all requirements set forth in this subchapter affecting providers and course certification, including payment of all provider and course fees.

(c) Insurers must maintain all continuing education records and rosters documenting each employee's compliance with this subchapter for at least four years.

(d) TDI or its designee may at any time investigate or audit an insurer's continuing education records and compliance with this subchapter. The Commissioner may, after notice and opportunity for hearing, discipline an insurer or full-time home office salaried employee under Insurance Code Chapter 82; Insurance Code §§4005.101 - 4005.108; and this subchapter, if the Commissioner determines that the insurer or full-time home office salaried employee is in violation of, or has failed to comply with, the Insurance Code or this subchapter.

SUBCHAPTER N. LICENSING AND REGULATION OF RISK MANAGERS.

§19.1310

STATUTORY AUTHORITY. Amended §19.1310 is adopted under Insurance Code §§4153.003, 4153.054, and 36.001.

Insurance Code §4153.003 provides that the Commissioner may adopt rules necessary to carry out Chapter 4153 and to regulate risk managers.

Insurance Code §4153.054 provides that a risk manager applicant must personally take and pass an examination to the satisfaction of the Commissioner under Insurance Code Chapter 4153 and TDI rules.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the department's powers and duties under the Insurance Code and other laws of this state.

TEXT.

SUBCHAPTER N. LICENSING AND REGULATION OF RISK MANAGERS.

§19.1310. Examination.

(a) Except as provided in subsection (b) of this section, qualified applicants must pass the risk manager license examination administered by TDI's designated testing service before TDI will issue a license to the applicant. Applicants must contact TDI's designated testing service to schedule the examination.

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(b) Applicants not required to take the examination as a prerequisite to obtaining a license are those who hold the designations of chartered property and casualty underwriter, certified insurance counselor, associate in risk management, or certified risk manager.

(c) An applicant who fails an examination may retake the examination on payment of an additional examination fee.

CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on May 11, 2018.

/s/ Norma Garcia
Norma Garcia
General Counsel
Texas Department of Insurance

The Commissioner adopts amendments to 28 TAC §§19.801, 19.1003, 19.1004, 19.1010, 19.1013, 19.1016, 19.1019, and 19.1310, and new §§19.803 – 19.810.

/s/ Kent C. Sullivan
Kent C. Sullivan
Commissioner of Insurance

COMMISSIONER'S ORDER NO. **2018-5499**